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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/374,512	08/16/99	MURJI	Z CAN-121

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EXAMINER

KIDWELL, M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED:

06/07/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/374,512

Applicant(s)

MURJI, ZULFICAR

Examiner

Michele M. Kidwell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- 1) ☐ Responsive to communication(s) filed on 16 August 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 1999 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the linear adhesive zones, the preferential bending zones, and central bending zone must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Reference sign 4 as shown in figure 1. Correction is required.

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the specification does not support the term "absorbent width" as stated in line 6 of claim 1.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 – 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is an inconsistency between the language in the preamble and certain portions in the body of the claim, thereby making the scope of the claim unclear. The preamble in claim 1 clearly indicates that a subcombination is being claimed, e.g., "**A sanitary napkin adapted to be worn in a crotch portion of an undergarment...**" This language would lead the examiner to believe that the applicant intends to claim only the subcombination of "a **sanitary napkin**," the **undergarment** being only functionally recited. This presents no problem as long as the body of the claim also refers to the **undergarment** functionally, such as, "for bonding to said **undergarment**."

The problem arises when the **undergarment** is positively recited within the body of the claim, such as, "**said linear adhesive zones bonding said sanitary napkin to the undergarment.**" There is an inconsistency within the claim; the preamble indicates subcombination, while in at least one instance in the body of the claim there is a positive recital of structure indicating that the combination of a **sanitary napkin** and a **undergarment** are being claimed. The examiner cannot be sure if applicant's intent is to claim merely the **sanitary napkin** or the **sanitary napkin** in combination with the **undergarment**.

Applicant is required to clarify what the claims are intended to be drawn to, i.e., either the **sanitary napkin** alone or the combination of the **sanitary napkin and the undergarment**. Applicant should make the language of the claim consistent with applicant's intent. In formulating a rejection on the merits, the examiner is considering that the claims are drawn to the **subcombination** and the claims will be rejected accordingly. If applicant indicates by amendment that the combination claim is the intention, the language in the preamble should be made consistent with the language in the body of the claims. If the intent is to claim the subcombination, then the body of the claims must be amended to remove positive recitation of the combination.

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As to claim 1, the applicant has claimed that the absorbent system has an absorbent width of at least 64mm as set forth in line 6 of the claim. It is unclear how the system can have an absorbent width. Either the layer(s) within the system are capable of absorbing a certain amount of fluids or an absorbent layer within the system measures at least 64mm in width. The concept of absorbent width has not been disclosed in the specification. Additionally, the applicant has stated that the linear adhesive zones bond the sanitary napkin to the undergarment in line 13 of the claim. This phrase reads as if the applicant intends to claim the undergarment in combination with the undergarment. This language renders the claim unclear.

Further, claim 6 recites the limitation "said certain three dimensional deformation profile" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buell (US 5,171,302) in further view of Redwine (US 5,891,121).

As to claim 1, Buell teaches a sanitary napkin adapted to be worn in a crotch portion of an undergarment, said sanitary napkin having a longitudinal axis and comprising:

- a) a fluid-pervious cover layer;
- b) an absorbent system under said cover layer, said absorbent system having an absorbent width of least 64mm;
- c) a liquid-impervious barrier layer under said absorbent system;
- d) said sanitary napkin being characterized by a thickness less than about 5mm;
- e) said liquid-impervious barrier layer including a pair of linear adhesive zones that extend along said longitudinal axis and are adjacent to respective side edges of the sanitary napkin, said linear adhesive zones bonding said sanitary napkin to the undergarment;
- f) said absorbent system including at least a pair of preferential bending zones that extend along said longitudinal axis and are adjacent to respective side edges of the sanitary napkin, said preferential bending zones registering with respective linear adhesive zones, said preferential bending zones allowing said sanitary napkin to fold at said preferential bending zone in response to lateral compression applied to said napkin and permitting said napkin to acquire a three-dimension deformation profile as set forth in col. 2, line 50 to 21, line 47. Buell does not teach the sanitary napkin to have opposed longitudinally extending side edges. However, the invention of Redwine teaches a sanitary napkin comprising longitudinally extending side edges as set forth in figure 4. It would be obvious to one having ordinary skill in the art at the time the

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invention was made to combine the invention of Buell with the invention of Redwine since both inventions are within the same field of endeavor and the addition of side edges to the sanitary napkin are well known in the art.

Regarding claim 2, Buell teaches a sanitary napkin characterized by a flexural resistance of not less than about 400g as set forth in col. 10, lines 57 – 62.

With respect to claim 3, Buell teaches a sanitary napkin having two opposite longitudinal side areas, said sanitary napkin including a preferential bending line extending obliquely in relation to said longitudinal axis, said preferential bending line extending from one longitudinal side area of the sanitary napkin to an opposite longitudinal side area as set forth in figure 6. Although Buell does not teach the obliquely extending preferential bending line to cross the longitudinal axis of the sanitary napkin, he does provide a central bending line corresponding to the longitudinal axis of the sanitary napkin. It would be obvious to one having ordinary skill in the art to alter the function of the central bending line by allowing the obliquely extending bending lines to cross the longitudinal axis of the sanitary napkin since it has been held that rearranging parts of an invention involves only routine skill in the art.

As to claims 4 and 5, Buell does not teach a plurality of preferential bending lines crossing one another and defining an array of crossing points which form a central preferential bending zone. However, Buell does teach a sanitary napkin with a central preferential bending zone. It would be obvious to one having ordinary skill in the art at the time the invention was made to provide additional bending lines to the invention,

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since it has been held that mere duplication and/or arrangement of the essential working parts of a device involves only routine skill in the art.

With respect to claim 6, Buell teaches a sanitary napkin wherein said three dimensional deformation profile is a W profile as set forth in col. 17, lines 25 – 29 and in figure 16.

As to claim 7, Buell discloses a sanitary napkin wherein said preferential bending zones are formed by a process selected from the group consisting of perforating, slitting, cutting and embossing as set forth in col. 13, lines 24 – 29.

With reference to claim 8, Buell teaches a sanitary napkin wherein said preferential bending zones are arcuate as set forth in col. 13, lines 59 – 61.

As to claim 9, Buell teaches a sanitary napkin wherein said preferential bending zones are aligned with respective longitudinal adhesive zones as set forth in col. 21, lines 41 – 47.

As to claims 10 and 11, Buell teaches a sanitary napkin meeting all of the limitations of the claims as set forth in col. 8, lines 45 – 49.

With respect to claim 14, Redwine teaches a sanitary napkin including a flap projecting from a side edge of said sanitary napkin, said flap being foldable about an edge of the crotch portion for retaining said sanitary napkin on the undergarment as set forth in col. 4, lines 47 – 64.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buell and Redwine as applied to claims 1 – 11 and 14 above, and further in view of Cohen (US 5,505,719).

Regarding claim 12, Buell discloses a sanitary napkin comprising an absorbent core that may be made by any means that is generally compressible, conformable and non-irritating to the wearer as set forth in col. 8, lines 36 – 61. Buell does not teach an absorbent system including an absorbent layer having a basis weight of from about 100 g/m<sup>2</sup> to about 700 g/m<sup>2</sup> which has been air-laid as a bottom strata of pulp, a middle strata of pulp and superabsorbent polymer disposed in amongst pulp, and a top stratum containing at least some pulp. The invention of Cohen does disclose this concept as set forth in col. 5, line 53 to col. 8, line 39.

As to claim 13, Cohen teaches a sanitary napkin wherein said absorbent system includes a plurality of absorbent layers in a superposed condition as set forth in figure 6.

It would be obvious to one having ordinary skill in the art to combine the inventions of Buell, Cohen, and/or Redwine since all of the inventions are related to a sanitary napkin which bends in response to applied lateral compression within the same field of endeavor.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele M. Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday thru Friday, 7:00am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703-308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

*Michele Kidwell*

Michele Kidwell

June 5, 2000

*John G. Weiss*

John G. Weiss  
Supervisory Patent Examiner  
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